

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JAIPUR BENCH, JAIPUR**

**ORDER**

**S.B.CIVIL WRIT PETITION NO.936/1999.**

Man Singh & Others.

**VERSUS**

B.O.R. & Others.

**30.11.2006.**

**HON'BLE MR.JUSTICE DALIP SINGH**

Mr.H.S.Rathore ]  
Mr.Rishiraj Singh Rathore ] for the petitioners.  
Mr.B.K.Sharma, Deputy Government Advocate.

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This writ petition has been filed challenging the judgment of the learned Board of Revenue which has held the judgments of the learned Divisional Commissioner and of the learned S.D.O. accepting the appeal filed by the respondents No.4 and 5 challenging the mutation made in favour of the petitioners.

The mutation entries in favour of the petitioners were made in pursuance of the sale-deeds executed in favour of the petitioner by the respondents No.4 and 5 from time to time. The objection of the respondents No.4 and 5 who filed the appeal *inter alia* was that they are *Majhabi Sikh* who are members of Scheduled Caste and, therefore, the sale-deed executed in favour of the petitioner was not valid in terms of Section 42(B) of the Rajasthan Tenancy Act, 1955.

In response to the aforesaid objection, the petitioners submitted that in the sale-deed, the respondents No.4 and 5 had stated that they are *Jat Sikh* and an affidavit to that effect had also been given by

them which has been annexed as Annexure-3 and Annexure-5 wherein they had stated that they are not members of Scheduled Caste but they are *Jat Sikh*. On the basis of the above, it was stated that since the respondents No.4 and 5 themselves while executing the sale-deed and in the subsequent affidavits, given by them, had clearly indicated that they are *Jat Sikh* and not the members of Scheduled Caste, the mutation cannot be challenged on the ground that the sale-deed is void on account of the provisions of Section 42(B) of the Rajasthan Tenancy Act, 1955.

The Divisional Commissioner as well as the Board of Revenue has dealt with the aforesaid contentions and has taken into account the evidence on record more particularly the sale-deeds executed previously by the respondents No.4 and 5 in the year 1967 wherein the respondents No.4 and 5 had clearly stated that they are *Majhabi Sikh*. As per the Presidential Order of 1950 in the list pertaining to the Rajasthan at Serial Number 43, *Majhabi* is included among the list of Scheduled Castes. Thus, as per the aforesaid order *Majhabi Sikhs* are members of Scheduled Castes and, therefore, the sale-deed executed by the respondents No.4 and 5 in favour of the petitioner was hit by the provisions of Section 42(B) of the Rajasthan Tenancy Act, 1955, as such, the same could not give rise to any right in favour of the petitioners so as to maintain the mutation entries in their favour. In the light of the above findings which have been given by the learned Board of Revenue as well as by the learned Divisional Commissioner, I do not find any error of jurisdiction

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having been committed by the courts below and consequently, I find no good ground to interfere with the order passed by the courts below.

Consequently, the writ petition as well as the stay application stand dismissed, as above.

**(DALIP SINGH), J.**

**Solanki DS, Jr.P.A.**